12375
SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, MAY 27, 2005

8:36 A.M.

(PAGES 12375 THROUGH 12484)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 12375

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I N D E X

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Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
Mr. Mesereau is listed as “M” on index. Ms. Yu is listed as “Y” on index.
Mr. Sanger is listed as “SA” on index.

R E B U T T A L


PLAINTIFF’S
WITNESSES DIRECT CROSS REDIRECT RECROSS
BONNER,
Craig (Re-called) 12413-SN 12429-SA 12453-SN
(Contd.)
ROBEL, Steve
(Re-called) 12464-SN 12469-SA 12474-SN 12475-SA

1 E X H I B I T S
2 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
3
4 460 Phone link chart prepared by Craig Bonner 12454
5 889 Photos of Brett Barnes 12457
6 890 Photos of Brett Barnes
7 and Michael Jackson 12457
8 891 Photos of Michael Jackson 12457
9 892 Photos of Brett Barnes and Michael Jackson 12457
10 893 Photos Brett Barnes
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12 894 Photos of Michael Jackson 12457
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Santa Maria, California
Friday, May 27, 2005
8:36 a.m.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: Good morning.
COUNSEL AT COUNSEL TABLE: (In unison) Good morning, Your Honor.
THE COURT: Let's see, we have a motion to quash a subpoena.
Mr. Levine, is it?
MR. LEVINE: Yes, Your Honor.
Did the Court have an opportunity to read my motion?
THE COURT: I've read your motion. I don't have a copy of the subpoena.
MR. LEVINE: Could you --
MR. NICOLA: I have to get one.
MR. LEVINE: I faxed it over, but I didn't fax the subpoena, Your Honor. The content of what they want is pretty much everything in the file. And I think the Court has previously ruled twice that they were not entitled to that. And I think the Court told Mr. Zonen on two separate occasions, on the 13th and the 20th, that the Court wasn't 12379

going to order that. And I just wanted to point out --
THE COURT: You must understand, though, I was telling them that they had to follow the proper legal process. They couldn't just, in open court, ask me to order people to produce records. So you've misconstrued my refusals.
MR. LEVINE: To the extent that that may be -- I will accept that, Your Honor. But I think what we have here is a very limited attorney-client waiver. There's been no waiver of the attorney work-product privilege. And I think the law is very clear that that privilege is strictly with Mr. Geragos.
THE COURT: I think you're mistaken there. There was a waiver of the attorney work-product privilege, plus it's very limited in criminal cases anyway. So it's very, very limited, if at all.
MR. LEVINE: Well, 105.46 of the discovery code incorporates the attorney work-product privilege. I mean, I understand that the waiver executed by Mr. Jackson purported to waive that privilege, but case law is very clear that that privilege rests solely with Mr. Geragos.
THE COURT: Yes. It's also very clear it's very limited in criminal cases. We've been through this on numerous witnesses here, Counsel. We've been schooled well on this issue.
MR. LEVINE: Okay. The point that I would 12380

like to make, Your Honor, is that the request is just for everything. And I think that --
THE COURT: I haven't seen the subpoena. That's the deficiency I'm dealing with here.
MR. LEVINE: Could we wait, then, until after you review the subpoena?
THE COURT: Sure.
MR. LEVINE: Thanks.
THE COURT: Okay. And somebody's getting it for us?
MR. ZONEN: Yes, Your Honor.
MR. LEVINE: Yes.
THE COURT: All right. There's another issue here, the -- a couple of issues I want to bring up. One is the -- originally when we allowed the rebuttal tape in, I gave -- I guess the takeout tape. It was the takeout that -- no, it wasn't the outtakes. It was the original Bashir tape; that the District Attorney asked that certain things that Mr. Jackson said be admitted for the truth of the matter asserted, and we instructed the jury that certain things would be -- that we'd advise them later. Someone brought this to my attention the other day, and I think the District Attorney should provide us with the portions of the tape -- not right now.
(Laughter.)
THE COURT: With the portions of the tape 12381

that show -- that you intend to argue are admissions, so that perhaps the Court should be more specific; at least we should discuss in our preparation of final instructions what areas the jury might conceivably consider are admissions or not admissions, which ones you were thinking about, because it is ultimately a jury question, but there is some preliminary finding, maybe, that I should make.

MR. SNEDDON: Yes. I'll do that, Your Honor. I believe I have the notes that were made the day the Court ruled as to which ones would be admissible when we went through it. And I'll take the responsibility for that, and share it with Mr. -- with counsel for the defense, and hopefully we can just come up with something we both agree on. It's on the record. I remember we did it in open court, so -- and it was by page and line number, so it shouldn't be that difficult to come by.

THE COURT: And in connection with that, then you had asked for a special instruction along the same lines on the takeout tape.

MR. SNEDDON: We did.

THE COURT: The outtakes and -- so we should address -- I will give that instruction, but we should address the same issue on that tape.

MR. SNEDDON: All right. I'll review that tape. I don't believe there's any in there, but 12382

that would be good for us to come to a consensus on.
THE COURT: Yeah. I would want it.
MR. SNEDDON: Okay. I'll do that.
THE COURT: And be sure that everyone agreed
that was the case.
MR. SNEDDON: That would be fine, Your
Honor.
MR. SANGER: I take it you're going to give
us an opportunity to argue that motion. I don't
think that's actually been heard yet.
THE COURT: What motion is that?
MR. SANGER: The motion the prosecution made
to limit the outtake tape.
THE COURT: Oh, yeah. No. That's why I
didn't give -- that's what I'm talking about.
MR. SANGER: Yes.
THE COURT: I want some actual material,
what we're talking about; this piece of information,
that piece of information, all the information. I
want both sides to address that. I'm more
concerned -- the tape's been shown, you know. What
we're talking about is jury instructions on this
issue.
MR. SANGER: Right. Correct.
THE COURT: So I'm just asking you to be
prepared to discuss those as we get ready to discuss
jury instructions.
MR. SANGER: Yes, sir. 12383

MR. SNEDDON: Judge, can I ask for a point of clarification on that?
THE COURT: Yes.
MR. SNEDDON: I understand exactly what the Court is saying, but, as I mentioned yesterday, I'm assuming -- and I don't want to assume too much, but I'm assuming that some sort of a limiting instruction on the tape in general is going to be given; that it was not admitted for the truth of the matter, except for those portions that may --
THE COURT: That's the issue.
MR. SNEDDON: Well, it would affect our rebuttal, because if the Court determines that those statements come in for the truth of the matter, then we obviously would be putting on evidence to show some of the statements made by Mr. Jackson during the course of those outtakes were not true. And so that's why we filed it prior to the time that we sit down for instructions.
I know I'm not -- I'm not asking the Court to carve out those portions of the tape where there may be -- may or may not be admissions by the defendant that would come in for the truth of the matter. But generally speaking, there's a great deal of narrative, an interview by the defendant that has nothing to do with what I would believe to be an admission.
And so I guess that's what I'm asking the 12384

Court now, because we need to know that before we rest, because, I mean, if some of that stuff comes in for the truth of the matter, we're going to call witnesses to prove otherwise. That's why we filed the motion, Your Honor.

And I believe that the understanding on the original Bashir tape was that that was not for the truth of the matter, except for the admissions, and it seemed to me that the same thing should apply to the outtakes.

THE COURT: That is true. That's what the Bashir tape ruling was, and that's the reason for admitting the outtakes. There really was not a truth-of-the-matter admission there. It was to balance the information. It was sort of the rest of the story.

I kind of viewed it as a situation where you have a conversation and only part of the conversation is admitted, so you let the other side admit the conversation, or the document. Sometimes part of a document's admitted. It's not clear the total meaning unless the whole conversation -- or a whole document.

So that's why I admitted the outtakes, was to give the defense -- they had been requesting that. They wanted the balance of the total picture and --

MR. SANGER: But in that case, it would come 12385

in for the truth of the matter. The whole conversation comes in for the truth of the matter.
THE COURT: Then the Bashir tape all comes in for the truth of the matter, right?
MR. SANGER: No.
THE COURT: You just want your side to have the truth of the matter.
MR. SANGER: No, I understand the irony there, in a sense, but the fact is that the whole Bashir tape has all sorts of other hearsay. The only reason that it was admissible for the truth was that --
THE COURT: I meant as to Mr. Jackson's statements.
MR. SANGER: As to his statements, yeah. If his statements come in for the truth of the matter --
THE COURT: Whether they're admissions or not. I don't think you do understand the irony. But go ahead.
MR. SANGER: No, no, I do. I'm wrestling with the irony at the moment. Ironically, it turns out.
(Laughter.)
MR. SANGER: I understand what the Court is saying, and I was just about to concede that, but I don't know -- I'd have to think about the Bashir tape. But it seems to me, if Mr. Jackson said 12386

things on the Bashir tape -- we had limited portions of the tape --
THE COURT: We've already told them they are not to take that tape for the truth of the matter asserted except for certain parts, which we told them we'd advise them about later.
MR. SANGER: Now, I'm not too worried about what Mr. Jackson said in the Bashir tape. What I'm worried about is -- you're not suggesting, Your Honor, that what Mr. Bashir says and other people --
THE COURT: No.
MR. SANGER: Okay. So that would still not come in for the truth.
Then the rest of the conversation, it would seem to me, whether it was on the Bashir tape or the outtakes, the whole conversation would come in for the truth of the matter as to what Mr. Jackson said.
THE COURT: Well, what Mr. Jackson said there was hearsay, and it has to have an exception to the hearsay rule to come in for the truth of the matter asserted, and admissions is one exception.
MR. SANGER: Well --
THE COURT: Clearly you don't let out-of-court statements of the defendant in that are not within the normal classifications, and that's what you're suggesting.
MR. SANGER: Well, generally, under the Evidence Code, if the entire statement comes in -- 12387

THE COURT: That doesn't --
MR. SANGER: -- it generally does all come in. I understand, Your Honor --
THE COURT: As to one limited piece of the conversation. You know, if they said, "Okay. The admission is, 'I sleep in the bed with young boys,'" and the other part of the conversation is, "But I don't have sex," then, yeah, that comes -- that's it. But if, you know, part of the conversation was what he did in town yesterday, no. And that's where we come in. There's a lot of outtake material there that's not material to the parts that are admissions.
MR. SANGER: Well, and that -- I think that's something we need to -- I don't know that we can accomplish it right now, because --
THE COURT: Well, the D.A. says he can't rest until -- literally he can't rest --
MR. SANGER: The District Attorney is restless.
MR. SNEDDON: That's the most accurate thing you've said during this whole trial, Judge.
MR. SANGER: Okay. Well, my first argument is, under the Evidence Code -- I understand what the Court just said, but under the Evidence Code, generally if they let in part of the conversation, the rest of it -- ordinary case, the rest of it comes in and it just comes in for the truth. 12388

THE COURT: That's your argument.
MR. SANGER: Your Honor is saying, well, we need to do something to pare it down. In order to pare it down, it's going to --
THE COURT: We need to do something to give the jury some legal instruction, some help here, you know. We can talk about it, but they have to decide it.
MR. SANGER: All right. Now, the tape itself also came in, the outtakes. The Hamid video came in also to show -- to rebut -- to rebut the contention that the Bashir tape was such a disaster and there was nothing that could be done except to do illegal things to the Arvizos.
THE COURT: That's right.
MR. SANGER: And so it came in to show, "Well, no, we had this in the bank." That was there. That was a strong piece of information or something that could be put out to the public.
THE COURT: Let me ask the District Attorney what his --
What is your position on the instruction we should give on the outtake tape that Mr. Sanger and I have just been discussing?
MR. SNEDDON: Judge, our position is I think outlined in the papers we filed with you; that is, that the outtakes were admitted, as the Court has amply pointed out, as simply a further picture of 12389

the entire portions of the interview of the Bashir documentary which was originally shown, and that they do not meet any exception to the hearsay rule, and therefore the limiting instruction that you gave the jury early on in this case with regard to the original documentary should be given with regard to the rest of the outtakes.

Now, what we haven't done, and the part where we addressed earlier in our conversation is, I can't tell you, as I stand here, whether there are or are not any admissions by Mr. Jackson during the course of those outtakes.

Frankly, my recollection is that there are not, because I recall that the tape -- the outtakes ended before the discussion began of his relationship with Gavin and his relationship with other boys and his -- and the questions asked by Mr. Bashir about, you know -- that dialogue about, "Well, isn't it" -- "Shouldn't an adult man not be sleeping with little boys?" So I don't believe that's on the outtakes.

So I don't think -- I believe that probably all of the outtakes are probably subject to the limiting instruction, except for one portion. And the one portion I would point out to the Court that we put in independent of the outtakes, actually we put in in our case, is the defendant's statement about the Jesus Juice, as an admission that he did 12390

use that term and it corroborates the statement of the kids.
But other than that one statement, my recollection, as I stand before the Court right now is, I don't believe there's probably any other admissions that would qualify as those that we set out - when I say "we," the Court, and counsel for the defendant, and us - in open court and delineated in the original Bashir, which may qualify as admissions.
But I'll tell you that my opinion is that the bulk of that tape, the outtakes takes are hearsay and should be subject to the same instruction as the original Bashir documentary.
I hope that addresses what the Court asked.
THE COURT: It does. Let me ask you a question now. On the tape of Garvin -- Gavin --
MR. SNEDDON: Yes, sir.
THE COURT: -- what's your purpose in introducing that?
MR. SNEDDON: Well, we indicated to the Court that there were two purposes. And of course one was prior consistent statements. And the other was that there has been an allegation on the part of the defense that this entire case, and the allegations made by Gavin in particular, was scripted by the mother. They presented several witnesses, most particularly Mary Holzer, to try to 12391

infer from what happened, or what statements were made in prior cases, or a prior case, that this case is a similar situation.
And so we are offering it for two purposes.
One is the prior consistent under Evidence Code Section 791, but more importantly, we're offering it for the -- it would be actually a nonhearsay purpose, which would be for the purpose of allowing the jury simply to examine the demeanor and the manner in which the disclosures were originally made by Gavin to the law enforcement agencies.
And of course I realize that is a different type of a ruling for the Court. And when you ruled that we could show it, I realize that you just made the ruling and didn't say on which basis. And so I do -- I do recognize, and I did recognize at the time, that there may be -- the way it would come in and whatever instructions you would give the jury may be different, and I do concede that, and so --
THE COURT: If I didn't say it - and I think, now that you mention it, I probably didn't - my intent in allowing that, making that ruling, was to -- not for the impeachment statements, but for the purpose of allowing the jury to examine his demeanor and the manner in which he made the disclosures.
And it's been my thought to give some instruction along with that, or afterwards when we 12392

give instructions, to limit the use of that tape not for the truth of the matter asserted.
MR. SNEDDON: Judge, I have no problem with that. For us, the significance of it is simply the way the disclosure occurred, and his manner and the way he behaves and reacts to the officers in what he says. So that's not a problem with us. And I understand the difference. And I kind of anticipated that might be what the Court had in mind.
THE COURT: Mr. Sanger?
MR. SANGER: Yes, sir.
THE COURT: Would you address that point, please? You are doing that issue, aren't you?
MR. SANGER: Yes.
I agree with the Court, it was not -- it should not be let in for prior consistent statements, because that should have been in the case-in-chief. And that's why we argued that on this thin basis, that it's collateral impeachment of Holzer, scripted, that may or may not apply to this situation.
And we argued that it was very -- you know, to be able to play this at the end, as we cited the case several times, the Carter case from the Supreme Court, that says you shouldn't be allowed to put dramatic evidence on at the end for a purpose that isn't really -- or that goes beyond what the real 12393

lawful purpose is, and we still believe that that's the case. So that's the first thing.
Secondly, as far as the truth of the matter, I think the Court could frame an instruction. The danger, though, would be that no matter what the Court says, the jury's going to sit here and listen to Gavin's statement at the end of the case and they're going to hear the words, and there's no way that they're going to be able to disregard what he's saying.
And if the Court limits it the way the Court limits it, there's also the fact that then we can't cross-examine even on some strange remarks that are made by Gavin that may not otherwise be picked up. Because it is our position that this was rehearsed. He had told Davellin this story. Davellin had told Dr. Katz. Davellin had told the police. And then he comes in, and by the end of the statement, he says, "I haven't told my sister or my brother about this."
If we can't -- if we can't inquire about that -- the officer, when they put the tape on, for instance, and say, "Well," you know, "he told you" -- "Isn't it a fact that you already interviewed Davellin and she already told you that, and you are aware Dr. Katz interviewed Davellin and she had all the details?" You know, I'm just giving that as an example. 12394

THE COURT: And to respond to that example, it seems to me that if the purpose is the spontaneity and demeanor of the child reporting it to the police for the first time, then in fact that cross-examination would be permitted, because -- not for the truth of the matter, but because it shows -- or it's evidence that a jury could infer shows lack of spontaneity.
MR. SANGER: Okay.
THE COURT: So it's tricky business, I understand. You know, that's why I --
MR. SANGER: We can live with that. That would -- that makes sense. I appreciate what the Court just said. And that would make sense if we're at least allowed to cross-examine on a couple of those issues like that.
I still -- I don't know if the Court was inviting a further argument it shouldn't come in at all, but I certainly would argue that. I think the Court ruled previously, so I don't mean to be arguing with the Court.
THE COURT: I did. And I understand that. And all of these issues are -- they're similar legal concepts, and that's why it's good to be discussing all of them at the same time, because invariably one side wants to produce evidence that's very similar to what the other side wants to produce, and they both oppose the evidence. 12395

MR. SANGER: Right. That's our job.
THE COURT: Well, but I like to make you look at it that way.
MR. SANGER: No, I understand that. Well, and so in this -- if the Court was going to let it in -- I don't know if the Court's considering revisiting that decision.
THE COURT: Well, I would consider -- since we're rediscussing it, I would consider anything new that you want to say on that issue, if you felt that you were cut short. I don't want to hear the argument again. I heard the argument. But if there's something you thought of later, or in this conversation we've just had this morning, if there's something else you want to say about that ruling, say it.
MR. SANGER: What I would add to everything else I said is that -- and it's actually become more clear right now, is that, by playing the tape, that could well lengthen the -- the surrebuttal process considerably. By not playing the tape, it would eliminate a good amount of surrebuttal that I don't think -- I think by the time all the dust settles with that rebuttal and the surrebuttal, I don't think the jury is going to be any further ahead in their process of finding out what happened, but --
THE COURT: Well, in that regard -- let's talk about your surrebuttal. If it's admitted -- if 12396

the tape's admitted only for the purpose of the demeanor, spontaneity, that type of issue with Gavin, and not for prior consistent statements or the truth of the matter asserted, you'll be required to address for me each issue, each witness that you intend to call on surrebuttal as to what the significance, relevance of that witness would be.
MR. SANGER: Well, I understand. I could address that briefly so the Court has an idea. I mean, for instance, Gavin would be called and could be cross-examined on circumstances leading up to giving this interview, and whether or not he's spontaneous during the particular interview. And there's some particular issues I --
THE COURT: I'm not really concerned about Gavin. I could clearly see that. But why would you re-call Mrs. Arvizo?
MR. SANGER: Mrs. Arvizo, because she has -- let me answer my part first, and I think Mr. Mesereau wants to add something there. But the -- but we'd call Mrs. Arvizo because that is the reason it's called -- I mean, the reason it's presented by the prosecution is they're saying this rebuts somehow Holzer's implication that because J.C. Penney's was coached, that this was coached. Well, we can -- we would like to call her, now that we've had some further evidence in this case, and confront her with some issues that 12397

suggested this was coached. And so --
THE COURT: When you say that “this was coached,” you’re saying that this interview with the sheriff was coached.
MR. SANGER: That’s correct.
THE COURT: Okay.
MR. SANGER: And then we have Dr. Katz, because Dr. Katz did the prior interviews where Davellin also told him all the details. And that obviously flies in the face of the idea that this is spontaneous and the police officers are somehow dragging this out of him. And Gavin also told all -- different details, but generally the same story, with some striking inconsistencies, but generally the same story he told to Dr. Katz. So we would need to go through and show that this is not as spontaneous as it appears. And I think if it’s looked at in those eyes, it isn’t spontaneous. But if it isn’t looked at through those eyes, then, you know, the People are going to say, “Well, look and see how spontaneous he is.” And so we need to do that. We also have Mr. Feldman --
THE COURT: What I really wanted to be sure of was that you weren’t going down the street of now you have to impeach him with statements he made post. I mean, that’s how we -- you see what I’m saying? 12398

If they're not admitted for the truth of the matter asserted, we're not -- we're not admitting them for prior consistent statements, then we're not going to admit them for inconsistent statements.
MR. SANGER: And if the Court does that, if that's -- if the Court's going to allow the tape -- and I'm urging the Court to reconsider that, because I think at this point it's -- it shouldn't be. But if the Court were to admit the tape, then I think that would be a good part of the instruction to give the jury, to let them know that we are not going to be attempting to impeach his statement, because it's not offered for the truth. We're not going to be attempting to impeach it at this time. Counsel's not being allowed to, or however the Court would phrase it, go into the subsequent statements that were made.
Now, we have introduced evidence of some of those previously, so they're in evidence, but I think that would be fair. Otherwise, it will appear that we're just kind of giving up or not challenging what was said. And I don't think that would be fair to the defense.
Could I have a second, just to see if Mr. Mesereau wanted --
MR. SNEDDON: Judge, may I have a chance to respond just briefly to something?
THE COURT: Yes. 12399

MR. SNEDDON: I'll wait for Mr. Mesereau.
MR. SANGER: I'm sorry, I heard Mr.
Sneddon's voice, but I didn't hear what he said
because I was talking to Mr. Mesereau.
THE COURT: Well --
MR. SANGER: Too bad, I missed it?
THE COURT: Well, I don't know. It was
pretty important.
MR. SANGER: All right. Let me respond to
that, Your Honor. Once again, Mr. Sneddon is wrong.
THE COURT: He said, "Let me be" -- he wants
to be heard.
MR. SANGER: On this issue.
THE COURT: On this issue.
MR. SANGER: I would like to just remind the
Court, please, on the outtakes, I did have a
response. I would like to respond to what Mr.
Sneddon said on that. But we are now talking about
this other issue, so I'll -- as long as you give me
an opportunity to do that before we're through.
THE COURT: No, go ahead and respond to the
outtakes.
MR. SANGER: Okay. Switching gears here to
the outtakes, Mr. Sneddon said the outtakes ended
before the discussions about Gavin. Well, that's
not correct. That's not even close to being
correct. The outtakes are outtakes that were done
in June, the end of June of 2002, the first two 12400

tapes, and then the third disk is in January of 2003. The third disk, actually, is at the very end. All of the other filming for the entire video, for the entire Bashir video, has been done at that time. In June, some of the videotaping has been done. But -- and the last -- the last one, all of it was done.

Secondly, not all of the statements of Mr. Jackson were taken by Mr. Bashir's film crew during the same time that Hamid was taping. So in other words, Bashir also taped at other times, obviously in Las Vegas and other places, at the ranch, at other dates undisclosed. We don't know because he's asserting the shield and won't answer. So he has other material that he got, and we don't have outtakes from that.

So, first of all, on the outtakes, let me give an example here. If the Court is going to limit it, our first position is the outtakes come in for the truth of the matter because it's part of the overall conversation. And there were cuts from that that were played in the actual Bashir, so the whole thing comes in.

Second, if the Court says it doesn't come in for the truth of the matter entirely, then we would ask that the Court look at this liberally. For instance - I was just thinking of an example - there's a point at which Mr. Jackson talks about his 12401

former wife, Debbie Rowe. And you recall there's questions about the children and -- a number of questions that related to the children.

If the Court is going to start carving things out, I suppose there could be an order that the statement as to the circumstances of the birth of his children would not be offered for the truth of the matter. But the statements that relate to his love for his children and his relationship with his children, particularly in direct response to questions from Mr. Bashir, would be admitted for the truth of the matter, because that goes directly to the issues in the Bashir tape where he talks about his love for children.

What Bashir did is, he cleverly and surgically took out what he thought was the most sensational clips from all the footage he had, which included all of this, and he did not include extensive commentary by Mr. Jackson about how he loves children, and Mr. Bashir encouraging him, and Mr. Bashir saying, "Oh, this is wonderful. I've seen your relationship," and he's responding to it. Because that truly does put the statements on the tape in context. So, if we're going to do it surgically, it would have to be somewhere along those lines.

Now, the Court could probably -- if our motion to admit it all for the truth is denied, the 12402

Court could probably give a general instruction, without going through and saying, “The tape up to this part is admissible for the truth of the matter, and then from this counter number to this counter number it isn’t.” And the Court could probably fashion something that covers the subject matter, in other words, saying that the entire tape -- give examples, perhaps.

THE COURT: I understand your position.

MR. SANGER: Okay. Very good.

All right. So unless there’s a response to what Mr. Sneddon has on the other thing, I’ll submit it.

THE COURT: All right. Mr. Sneddon?

MR. SNEDDON: Judge, I’m done on the Bashir thing. I think the Court has our position on it. And we’ll look at the tape. If there’s something on there, there’s something on there. If there’s not, there’s not. I think I made that clear.

With regard to the second part, however, I do want to say this, because I think there’s been the creation of a misimpression with this Court, and that is that -- the question that you asked about Dr. Katz and the reason that Dr. Katz would be called, and counsel’s reference of a fact that Davellin made statements to Dr. Katz about there had been previous disclosures, based upon my recollection of the testimony, is untrue. 12403

There had been discussion by Gavin with Davellin with regard to certain incidents, including the showing of the pornography, adult materials, the drinking, the mannequin incident, but there had been no disclosure of the sexual activities between the defendant and Gavin. And I think Dr. Katz was very clear that, in Gavin's conversation with him, there was no disclosure, and when he got to that point he just dropped his head and he wouldn't talk anymore, and that's why Dr. Katz felt he needed to make a mandated report.

So I think what I'm saying to the Court simply is, before the Court opens up a lot of avenues for cross-examination or bringing these witnesses in, I think it's incumbent on the defense to show where there's some testimony in this case that there really was a disclosure of the sexual conduct between the defendant and the victim in this case on a prior occasion, before he disclosed on the video that we're about to play.

I believe the state of the evidence in this case is there was absolutely none. This was it. And that this would be collateral to the main issue as to why this tape is being shown. So --

THE COURT: I think, so that you understand, I will require both sides, but in this case specifically the defense, to -- before a witness is called, to make an offer of proof on surrebuttal as 12404

to why they're calling the witness and how it relates to your rebuttal. I'm not opening up this trial again for anybody.
MR. SNEDDON: Okay.
THE COURT: So -- and at that time you'll have an opportunity to address it. I just wanted -- and I appreciate that Mr. Sanger gave me a picture of some of the material he thought he was going to be bringing in, and most of what he said seemed relevant. But I will look at each piece, and I'm going to hold people tight to this, because we're on surrebuttal. The case is over. You're on rebuttal.
MR. SNEDDON: All right. Thank you, Your Honor.
THE COURT: On your subpoena, come forward.
MR. LEVINE: Yes, my more boring issue, Your Honor.
Just to keep it very brief --
THE COURT: I don't think your issue is boring, Counsel.
MR. LEVINE: Thank you, Your Honor.
Compared to the others.
With the benefit of hindsight, it seems that Mr. Geragos testified pretty much that he ordered surveillance in this case and the reasons why he did that. And I think that's the extent of what both sides were getting at during the cross.
We have here an attempt to basically try to 12405

get billing statements, everything related to his representation. A lot of that, the Court can see, is irrelevant to what has occurred. It would be beyond the scope of both cross and direct. And I think to even -- and I think what he stated in his testimony is that he didn't take any notes. He didn't have any tapes. Whatever e-mails there were, the Court -- they have been provided by the defense to the prosecution.

And I think that Brad Miller, who did the surveillance and would be the relevant witness as to what occurred during the surveillance, I think he was raided, and I think that there was a search warrant served on his offices. I don't really think that the records, his billing records and what are other extraneous items that may be in the file, are really relevant at this point.

I think both sides -- Mr. Zonen did a very effective cross-examination that lasted almost five hours. And I think that there's really nothing left to do in this particular area. So, it appears that the request, as it's framed in their subpoena, is just overbroad, putting aside any privileges or any other issues. And I think that it would be better if there was something specific that we can respond to.

I mean, you have to understand, the file with Mr. Jackson, the brunt of it is just box -- I 12406

don’t know how big it is. I haven’t seen it. But most of it is after he was arrested. So there would be a lot of --

THE COURT: That seems to be one of the problems with the subpoena, now that I see it, is that the -- there’s not a limitation to the time period that the waiver purports to. You know, it appears to be overly broad from the standpoint that they subpoena everything, which, you know, clearly they are not entitled to subpoena records beyond the time waiver.

MR. LEVINE: Even if we limit it to records within the time waiver, I mean, let’s say they add that sentence and it’s in there, which I think they -- I think that was their intent. Again, it’s just a situation here where, at this very late stage of the trial where everybody has rested, and we’re getting back into what seems to be very insignificant information. Mr. Geragos’s testimony was very collateral to -- it’s just ancillary, a very small part, and he just basically ordered surveillance. And it seems that --

THE COURT: It’s a little more complicated than that.

MR. LEVINE: I understand. I read --

THE COURT: You didn’t see the trial, so I’ll accept --

MR. LEVINE: I did see parts of it. It was 12407

very compelling, Your Honor. I was here last week.
But I think that it would be better if we
can just have --
THE COURT: One of the things I'm addressing
is there was some testimony just yesterday about the
number of phone calls between Mr. Geragos and other
people involved during this period, which flies in
the face of your assertion that he was just -- that
he just ordered surveillance. You know, that's not
true. He was very involved in a lot of that, you
know, what was going on, and that -- so I just --
you know, I just have to tell you, your assertion
doesn't stand up. But --
MR. LEVINE: I'm not suggesting that he
didn't talk to people. The fact that a phone call
was made, again, I'm just really -- just seems --
again, what the defense called him for was for that
purpose. That other items came up, I understand.
I'm just trying to --
THE COURT: You have to realize that, until
the defense called him, he claimed the privilege,
and he -- the District Attorney couldn't call him.
They couldn't subpoena his records. In fact, I had
a special master spend months going through the
e-mails, the computer hard drives that were seized,
and segregating out the privileged material, only to
have him come into court and have the privilege
waived. So what may appear to you to be a late 12408

subpoena isn't late at all, considering when Mr. Geragos and Mr. Jackson waived the privilege.
MR. LEVINE: All right. We didn't like that argument. We didn't like the attorney-client and not the attorney work-product. I understand that.
THE COURT: I'll just make this easy for you. I'm going to -- I'll make it easy for me, excuse me, not for you.
MR. LEVINE: Thank you, Your Honor.
THE COURT: I'm going to allow the subpoena, but I'm going to limit it to materials that are within the scope of the waiver.
MR. LEVINE: Okay. Is there a time frame as far as -- I know that the boxes are in storage somewhere and they have to be pulled out.
THE COURT: Well, Mr. Geragos actually said he didn't think there was much material.
MR. LEVINE: I agree.
THE COURT: So it can't be very burdensome. He didn't think there was hardly anything.
MR. LEVINE: Well, that would be me, though. I would have to go through the boxes, Your Honor, so --
THE COURT: All right. We're back in session Tuesday. That's when I want it here.
MR. LEVINE: Thank you, Your Honor.
MR. ZONEN: Your Honor, would it be possible to get it earlier than that? Given the reality of 12409

our case, we're going to be done Tuesday.
THE COURT: They can't hear you back there.
MR. ZONEN: One of these days I'll remember this.
We believe that we will likely be resting on Tuesday. If we don't get the materials until that time -- and frankly, if we have to wait till Tuesday, we would probably need Mr. Geragos's presence here. If we could have it before Tuesday, we might be able to resolve a stipulation where he wouldn't actually have to come; that we could perhaps stipulate to the admissibility of some materials. But we would need the materials in advance of that date. Otherwise, I'm afraid Mr. Geragos would have to be here on Tuesday, as he would be the only one to lay the foundation for the introduction of those documents, assuming there's some relevant documents among the file.
MR. LEVINE: I really have nothing to do this weekend, it being Memorial Day weekend. I'm happy to accommodate this request to go through it. I don't really think there is much, because I think his testimony was he didn't take notes, he didn't have tapes. And I know that --
THE COURT: That's pretty much what he testified to.
MR. LEVINE: He also turned over a lot of stuff to the defense, which I would assume they have 12410

possession of and they would be obligated to turn over to the prosecution, given the fact that they waived the privilege that they had.
THE COURT: They have different obligations. You're only required to turn over what you have, not what's been forwarded to other people.
So in order to help bring this case to an end, and to ruin your weekend, I'll order that you present it on Monday to the district attorneys.
MR. LEVINE: It's a lovely drive here from Los Angeles, Your Honor.
MR. ZONEN: He'll only have to go to Santa Barbara.
MR. LEVINE: Okay.
THE COURT: You should make an agreement how you're going to get together.
MR. ZONEN: I'll do that. Thank you, Your Honor.
MR. LEVINE: Thank you, Your Honor.
THE COURT: Thank you.
What I want to do is -- you want to say something?
MR. SANGER: I do. I just missed the last part there.
These are documents that are subpoenaed to the Court, not to the District Attorney's Office. I don't mind them being delivered to the District Attorney's Office if we have an agreement that they 12411

will immediately provide us with a copy.
THE COURT: So ordered.
MR. SANGER: Thank you.
THE COURT: But I don't think they were
listening this time either.
MR. AUCHINCLOSS: I was listening.
THE COURT: Oh, you were. Okay.
Oh, it was you that wasn't listening last
time. I get confused about who's not listening.
Don't bring the jury in. I want to just
take a couple minutes and look at some material here
before you bring the jury in.

(The following proceedings were held in
open court in the presence and hearing of the
jury:)

THE COURT: (To the jury) I know what you're
thinking.
JUROR NO. 7: Uh-oh.
THE COURT: You're probably thinking, "Well,
if you don't want us to come in until 9:15, then why
do you have us here at 8:30?" Right?
This is just a little bit more complicated.
We're in the rebuttal stage, and the legal issues
become more complicated, and I'm just trying to take
care of them as quickly as they come up and then get
you in here. 12412

Just think of it this way: You only have 15 more minutes till the break.
Counsel, you may proceed.
MR. SNEDDON: Thank you, Your Honor.

CRAIG BONNER
Having been previously sworn, resumed the stand and testified further as follows:

MR. SNEDDON: First of all, I'd like to begin by having another photograph marked as 909 for identification purposes. I've shown it to counsel and I'd like to approach the witness, with the Court's permission.
THE COURT: You may.

DIRECT EXAMINATION (Continued)
BY MR. SNEDDON:
Q. Detective Bonner, yesterday, we were talking during your testimony about the location of the two areas where the sensors were located in the downstairs area of Mr. Jackson's bedroom suite, okay? And I've handed you the exhibit marked as People's 909. Do you recognize that photograph?
A. Yes, I do.
Q. And have you seen that area before?
A. Yes, I have.
Q. And is that photograph an accurate depiction 12413

of what it purports to represent?
A. Yes, it is.
MR. SNEDDON: Your Honor, I'd move that 909 be admitted into evidence.
MR. SANGER: No objection.
THE COURT: It's admitted.
MR. SNEDDON: Your Honor, could we have the input for the Elmo, please?
Q. We put on the board the photograph -- excuse me. There we go -- the photograph marked as 909, which is now in evidence. And do you recognize that photograph?
A. Yes, I do.
Q. Okay. And in that photograph, do you see the areas where the -- what you call the -- what do you call them? -- the enunciators are located?
A. Yes.
Q. And I guess I should give you the red -- that's the laser. Would you, first of all, point out the locations of what you call the enunciators?
A. The two enunciators, or alarm speakers, were located, the first one, underneath this bookcase/cabinet, right down here.
Q. You're indicating in the lower left-hand corner of the Exhibit 909?
A. Correct. Underneath it.
Q. All right.
A. The second enunciator was located underneath 12414

this chair, or throne.
Q. Okay. Now, I'm going to show you another photograph marked as 54, which is in evidence. Do you recognize that photograph?
A. Yes, I do.
Q. And that's the same chair -- the chair that's depicted in that photograph is the same chair depicted in photograph 909; is that correct?
A. That's correct.
Q. And was that the location of the chair the time that you were out at the house in November of 2003?
A. Yes.
Q. And was that the location of the sensor -- or the enunciator that you mentioned on that occasion?
A. Yes.
Q. And the same thing in December of 2004?
A. Yes.
Q. So -- and this is -- which door is this?
A. This is the doorway that leads from the hallway into the private area of Michael Jackson's room, or the living space downstairs.
Q. All right. Now, the next photograph is People's 69, which is in evidence. You recognize that photograph?
A. Yes, I do.
Q. And is the cabinet depicted in that 12415

photograph the same cabinet that you referenced earlier in your testimony?
A. Yes, it is.
Q. And the room just to the left of that cabinet is what room? What is that?
A. That's the bathroom with the Jacuzzi tub.
Q. Okay. And again, was this the same location -- was this cabinet and the enunciator in the same location as depicted in this photograph on the 18th of November, 2003?
A. Yes. However, due to the angle that the film -- or the photograph is taken at, you cannot see it in this photograph.
Q. But you did see it personally?
A. Yes.
Q. And in December when you went out there in 2004, was that cabinet still in the same location?
A. Yes, it was.
Q. And the enunciator was still in the same location?
A. Yes, it was.
MR. SNEDDON: We can have the lights, Your Honor.
Now, Your Honor, I have an exhibit which has been marked as 908 for identification purposes, and I've indicated to counsel what portion of the exhibit that we want to play, and we have it pre-set to that portion. And what I've told counsel that we 12416

would do, if this is okay with the Court, is that we will take the portion that's played in court out of this exhibit and provide that, simply that portion, for the Court in case the jury wants to look at it later. In other words, we'll substitute -- not -- we won't substitute. We will provide a 908-A, which will have just the portion that's shown to the jury.
THE COURT: That's good.
MR. SNEDDON: Because there's other matters on here, and we didn't have time to do the editing on it. And I think that's acceptable to the Court and I think that's acceptable to counsel.
MR. SANGER: Yes, it is.
THE COURT: All right. That's good. I'd like you to do that.
MR. SNEDDON: We will do that, Your Honor. So this is Exhibit 908, and we're going to -- let me ask a few foundation questions and then we'll show it.
Q. Detective Bonner, you had occasion to review a DVD disk of some portions of the search warrant that was executed in December of 2004, correct?
A. That's correct.
Q. And you were present when those portions of the video that the jury is about to see were filmed; is that correct?
A. Yes, I was.
Q. In fact, your voice can be heard on the 12417

video?
A. Correct.
MR. SNEDDON: And with regard to the portions that we are about to see, Your Honor, I have another exhibit that I'd like to have marked as People's 907 for identification purposes. I've shown it to counsel, and it's a diagram. And I'd like to show it to the witness and authenticate it before we show the video.
THE COURT: You may. How long is the video now?
MR. SNEDDON: Very short. It's --
THE WITNESS: About 40 seconds, 45 seconds.
MR. SNEDDON: 40 seconds. What's the number on that? 907?
THE WITNESS: Absolutely.
MR. SNEDDON: Your Honor, can I ask the questions here? I'll talk real loud, if that's all right.
I'll go back and forth. I could use the exercise.
Q. 907, do you recognize that?
A. Yes, I do.
Q. Did you prepare that?
A. Yes, I did.
Q. And is that -- does that purport to be to scale or just an illustration of the various locations of the rooms of the defendant's master 12418

bedroom?
A. This is not in any way to scale. It's just
a quick drawing just to show relative location.
MR. SNEDDON: With the Court's permission, I
move that be admitted for illustrative purposes of
the witness's testimony that he's about to give.
MR. SANGER: No objection.
THE COURT: It's admitted.
MR. SNEDDON: All right. I think we'll play
the video and then we'll go back to this exhibit.
THE COURT: All right.
(Whereupon, a portion of a DVD, People's
Exhibit 908 (to be later marked as 908-A) was played
for the Court and jury.)
MR. SNEDDON: All right. For the record,
that portion of the video that was shown was 19:20
to 19:55.
Now, we could have the lights again, Your
Honor.
Q. Mr. -- Sergeant Bonner, where was the
cameraman located at the time that those chimes were
going off?
A. He was standing directly in front of or on
top of the area where the enunciator was located
underneath the bookcase/cabinet.
Q. All right. Let's put this Exhibit 907 up on
the board, if we can.
Okay. This is Exhibit 907, correct? 12419

A. That's correct.
Q. All right. Now, on the particular exhibit - you have the laser there - you have an "Enunciator 1," with a little square; is that correct?
A. Correct.
Q. Where is that located in relationship to the room?
A. Enunciator 1 is located right here. This was where the bookcase was. And the enunciator was underneath the bookcase.
Q. All right. And could you illustrate to the ladies and gentlemen of the jury the approximate location of the cameraman at the time that they heard the chimes going off in the Exhibit 908?
A. Our cameraperson was standing right above that bookcase pointing down, at one point in time directly, the camera pointing directly at where that enunciator was at.
Q. You're indicating just to the top left of the small square, correct?
A. Correct.
Q. Or rectangle?
A. Through the video, he moves -- he starts out approximately right here, and I believe he ends right about here.
Q. Okay. And then with regard to the "Enunciator 2," what does that relate to in your previous testimony? 12420

A. Enunciator 2 was the nonworking enunciator that was underneath that red and gold chair.
Q. Now, using this diagram as a further illustration, you were shown a photograph yesterday that showed one of the sensors up in the ceiling prior to -- close to the entrance of Mr. Jackson's bedroom door, correct?
A. Correct.
Q. And would you show us the location of that on the diagram?
A. It is right here, and I have called it "Curtain Sensor 1."
Q. Now, in November and December -- November of 2003, let's take them one at a time, was that curtain sensor working?
A. Yes.
Q. And in December of 2004, was that curtain sensor working?
A. Yes.
MR. SANGER: I'll object, asked and answered, Your Honor.
THE COURT: Overruled. Next question.
Q. BY MR. SNEDDON: With regard to the exhibit, 907, you have a second curtain sensor located on that exhibit, correct?
A. Correct.
Q. And why don't you show the jury where that's located? 12421

A. That's located prior to the doorway leading into the foyer. Right there.
Q. And was that sensor active on November 18th, 2003?
A. It did not activate any alarms.
Q. And with regard to December of 2004, was it working?
A. Again, it did not activate any alarms.
Q. You weren't out at the ranch in February and March of 2003, correct?
A. Correct.
Q. All right. I'm just going to ask you one other thing and then we'll be done.
I've handed you the exhibit that -- it's 907, correct?
A. Correct.
Q. And would you please put on Exhibit 907, with the red pen I've given you, the approximate location of the sheriff's department cameraman at the point where the video was played to the jury?
So with regard to Exhibit 907, you've placed a little red figure on that; is that correct?
A. Two circles with a line between the two, approximating the positions that you observe him to be in.
Q. So he moved during the course of the filming; is that right?
A. Correct. 12422

Q. But in that area. That was the area during the entire time that the chimes were ringing?
A. Correct.
Q. Okay. You've had occasion to view the defense video of the three scenes where the chimes were filmed?
A. Correct.
Q. Okay. And with regard to the time that those were filmed, could you determine, from your experience of being out there twice, whether both of the enunciators were working on that day?
A. I believe both enunciators were working when the defense did their video.
MR. SANGER: I'm going to move to strike that. I didn't understand the question. I move to strike the answer for the purpose of objecting. That would call for speculation. There's no foundation. He wasn't there.
MR. SNEDDON: I'm about to ask him that question.
THE COURT: All right. I'll sustain the objection and strike the answer so you can --
Q. BY MR. SNEDDON: Have you reviewed that video?
A. Correct.
Q. And from reviewing that video, are you able to determine whether or not both of those enunciators were working at the time that the 12423

defense conducted their experiment?
A. Yes.
MR. SANGER: Objection. He answered. He just answered “yes” or “no,” so that’s fine.
Q. BY MR. SNEDDON: And are you able to reach that opinion based upon your prior experiments and familiarity with how this system works?
A. Yes.
Q. When you were actually out there?
A. Yes.
Q. I would ask you how -- what is the basis of your opinion that both enunciators were working the day that the defense filmed their exhibit concerning the chimes in the Jackson suite?
MR. SANGER: Objection, Your Honor. Assumes facts not in evidence. There’s no evidence as to his opinion, only that he had one. And I object to his opinion, to any opinion, as not being based on an adequate foundation.
THE COURT: Overruled. I’ll allow the answer.
THE WITNESS: There are two different enunciators located in two different locations. There are two different curtain sensors located in two different locations.
We know, based upon our being there in December of ‘04 and on November 18th of ‘03, that Curtain Sensor 1 activated Enunciator 1, which is 12424

located furthest from the stairwell, and that would presumably have a lower volume than if Enunciator 2 was activated, based upon the filming with the individual in the upstairs.
When you listen --
MR. SANGER: Excuse me. First of all, it's a narrative. And second of all, I move to strike the last part as being an opinion without a foundation.
THE COURT: I am going to sustain the objection and strike the opinion.
Q. BY MR. SNEDDON: Are you able to tell, from a review -- based upon your familiarity with the system and your having been out there, are you able to determine, "yes" or "no," from a review of those films, that both enunciators were working that day?
A. Yes.
Q. And are you able to determine that based upon your review of the sounds, the differing sounds that the chimes make at certain portions during those scenes?
A. Yes.
Q. Were you also able to determine, when you were out there before, that the enunciators have three volume settings on them?
A. No.
Q. Multiple volume settings?
MR. SANGER: Objection. Leading; asked and 12425

answered.
THE COURT: Overruled.
THE WITNESS: No.
Q. BY MR. SNEDDON: Did you determine that at some other point in time?
A. Yes.
MR. SNEDDON: All right. I have no further questions on this subject, Your Honor. But I believe at this point I would have this witness -- I'll ask one question, and then I think we have a stipulation to offer to the Court. And we can have the lights.
MR. SANGER: First of all, I want to object to the last question and move to strike the last answer for the purpose of objecting to the question on the grounds there's no foundation.
THE COURT: Overruled.
Q. BY MR. SNEDDON: During the course of your role in this investigation, was it your responsibility to review the items that had been obtained through the course of the search warrant process?
A. Yes.
Q. And was one of the assignments that you had to determine the items that were seized from the office of Investigator Brad Miller?
A. Yes.
Q. And during the course of that review, did 12426

you determine whether or not there was a tape that was recovered from Mr. Miller's office that dealt with an interview between Janet Arvizo and the Department of Child & Family Services in Los Angeles on February the 20th of 2003?
A. There was not.
MR. SNEDDON: All right. I believe the stipulation, Your Honor, is that --
MR. SANGER: Tom?
MR. MESEREAU: Oh.
MR. SNEDDON: Do you want to read it?
That's fine, thank you.
I'll read the stipulation, Your Honor, into the record, if that's appropriate for the Court.
THE COURT: You may.
MR. SNEDDON: Both sides are willing to stipulate to the following: That prior to the trial, both the prosecution and the defense exchanged documents and other evidence with each other, and on December the 6th of 2004, the defense provided to the prosecution a copy of the DCFS interview of February the 20th of 2003.
THE COURT: Is that your agreement, Mr. Mesereau?
MR. MESEREAU: The stipulation reads we provided the prosecution with our copy of that interview, I believe.
THE COURT: All right. 12427

MR. SNEDDON: That's fine.
THE COURT: Is that your agreement?
MR. SNEDDON: That's our agreement
THE COURT: Is that your agreement?
MR. MESEREAU: So stipulated, Your Honor, yes.
THE COURT: I'll approve that stipulation. (To the jury) When the parties stipulate to a fact, the jury is bound by that stipulation.
MR. SNEDDON: Your Honor, I think probably to tie things together for the jury and the Court, we should indicate that the stipulation we entered into is directly related to the exhibit that has been played for the jury here in the courtroom. And I don't have -- I'm sorry, I apologize for not having the exact exhibit number, but I will find that and provide that to the Court later, if you want.
MR. MESEREAU: I'm not sure what that even refers to, Your Honor.
MR. SNEDDON: I'm referring to the tape that was played of that conversation that the jury heard, which is the February 20th DCFS interview.
MR. MESEREAU: I'm not stipulating to that. I'm just -- if he wants to argue that, he can. The stipulation is the stipulation.
THE COURT: (To the jury) All right. So you're not bound by what they don't stipulate to. 12428

All right. Let's take our break.
(Recess taken.)
THE COURT: Go ahead.
MR. SANGER: I believe Mr. Sneddon was
concluded, so may I proceed, Your Honor?
THE COURT: Yes.
MR. SANGER: Thank you.

CROSS-EXAMINATION
BY MR. SANGER:
Q. Detective Bonner, how are you doing?
A. Good.
Q. All right. Now, there was a lot of
testimony about "enunciators" and "curtain sensors"
and things like that. Did you learn those terms
when you were out there in December of 2004?
A. The terminology, yes.
Q. Okay. And you learned that because you were
out there with some people who had some background
in these items; is that right?
A. Correct.
Q. All right. You're not an expert in any of
this; is that correct?
A. No.
Q. And before December the 4th, 2004, if
somebody said, "Where was the enunciator?" what
would you have said?
A. "What is an enunciator?" 12429

Q. All right. And if somebody said, “Where is the curtain sensor?” what would you have said?
A. “What’s a curtain sensor?”
Q. All right. Now, you mentioned in the video that we saw that the person was pretty much standing right on top of that cabinet. Do you remember that testimony?
A. Correct.
Q. All right. In fact, the person with the camera was standing some distance away from the cabinet, wasn’t he?
A. Not far.
Q. Okay. Not far. But that’s some distance away. That’s not “on top of,” is it?
A. He was -- in the position of the camera, the camera was on top of the location.
MR. SANGER: Uh-huh. Do we have the Exhibit 907? Oh. It’s right here. Thank you. May I put 907 up, Your Honor?
THE COURT: Yes.
MR. SANGER: Thank you.
Q. I’m showing the exhibit tab, “907,” at the bottom and then I’ll shift back up here. This is your not-to-scale drawing, correct?
A. Correct.
Q. And you did not make that at the time that you were out there, did you?
A. No, I did not. 12430

Q. You made that when? Yesterday? Or --
A. A couple days ago.
Q. All right. Do you remember a piano in that room?
A. Yes, I do.
Q. It says, “First floor living room area.” Where is the piano?
A. It’s not in there.
Q. I know you didn’t draw it in there, but can I have the --
A. It was located right about approximately where the “R” -- where the “O” is for “Enunciator 1.”
Q. All right. Well, anyway, everybody can see that, I suppose. We used to have a pointer. Do you have a pointer?
MR. ZONEN: Yes.
MR. SANGER: May I borrow it?
MR. ZONEN: Certainly.
MR. SANGER: Thank you. I’m not sure what you do to make it point. All right. Here you go. That’s it.
Q. So the piano -- there’s a little alcove over here, is that right, with a window?
A. Yes.
Q. And the piano is right in that alcove; is that correct?
A. Correct. 12431

Q. Do you remember seeing the piano in the video, the little clip that we just saw?
A. No.
Q. All right. And the picture -- let's see which one this is.
May I put up 909, Your Honor?
THE COURT: Yes.
Q. BY MR. SANGER: In the picture, 909, the photographer was standing right in this area right here; is that correct?
A. From that point to poss -- I believe a little bit left of where you're pointing.
MR. SNEDDON: I'm going to object as vague as to whether he's talking about this photograph or the cameraman.
THE COURT: Sustained.
Q. BY MR. SANGER: I obviously meant the cameraman that you were talking about who's taking the video. Because the photographer who took this picture, if he was standing there, you'd see him, right?
A. Correct.
Q. So the photographer who was taking the video was standing in approximately this location that we're -- I'm pointing at on Exhibit 909; is that right?
A. Correct, and then moved slightly to his left within the filming. 12432

Q. Moved over here a little more; is that right?
A. Up closer, but, yes.
Q. Okay. All right. Now, you heard the video that was played, right?
A. Which video are you talking about?
Q. The one that was just played. I forget the number. It was --
A. Our video.
Q. -- your video.
A. Yes.
Q. I'm sorry, forgive me one second. 908-A theoretically is the video that was played.
A. Right.
Q. You heard that?
A. Yes, I did.
Q. All right. Now, were you aware that there's a volume control on this video player here on the console in the middle of the courtroom?
A. I am aware of that, yes.
Q. Okay. Were you aware that all other videos that were played for all subject matter were played between Sound Level 7 and 9?
A. Yes.
Well, I'm sorry, I take that back. No, I am not.
Q. Were you aware that Mr. Auchincloss set this video on 1, the sound level 1 to play the 908-A? 12433

MR. SNEDDON: I move to strike this testimony as lack of foundation on the witness's part and irrelevant as to the testimony.
THE COURT: Sustained on foundation.
Q. BY MR. SANGER: Okay. Do you know what setting Mr. Auchincloss put that on when he played it?
A. No, I don't.
Q. You would agree that there's generally volume controls when you're playing videos, right?
A. There are.
Q. Now, you were asked some questions about being aware of the investigation in this case because of your position as one of the detectives in the case, right?
A. Correct.
Q. And are you aware that a number of people have testified that the bell that they heard at the time of the video that was played by the defense, that being the video of the test of the alarm, that that alarm is pretty much the alarm that they've been hearing at that ranch in that hallway for years? Were you aware of that?
A. I've heard that secondhand, yes.
Q. And you don't have any decibel level tests to produce to the Court at this time?
A. No. We attempted, and it was not -- it wasn't worth doing. There was no -- it wasn't 12434

consistent would be the best way to describe it.
Q. Well, decibel level tests really don't do you much good unless you have something to compare it with; is that right?
A. Correct.
Q. So you're basically saying, "Yeah, pretty much that's what I heard. I heard a bell, and it sounded like a bell," right?
A. And the volume level, yes.
Q. And other people have said they heard what they heard, right?
A. Correct.
Q. All right. And I think you answered this to Mr. Sneddon, but just to be certain, you personally have no idea how this system was functioning in February and March of 2003, correct?
A. Correct.
Q. All right. Okay. Let me go back to the phone records now, which is the first thing you testified to. And let me clear some of this out of the way.
You have in front of you, I think, Exhibits 460, 448 and 449; is that correct?
A. Correct.
Q. And those exhibits would be the packet of -- let me withdraw that.
Exhibit 460 would be the packet of materials that contain your various charts of phone calls made 12435

to and from various people; is that correct?
A. Correct.
Q. And 460 also includes the list of the phone numbers that went to and from; is that correct?
A. That's correct.
Q. That's a chart that's also in 460.
All right. Now, 460 was your effort to add certain phone calls, based on records that you reviewed, to the charts that you made previously; is that right?
A. Not necessarily, no.
Q. Not necessarily. I always worry about an answer like that.
A. Well, in certain situations, we did. However, in situations where the calls only showed calls between Bradley Miller and Mark Geragos and did not connect up to the alleged co-conspirators, then we did not include that data in there.
Q. Okay. So what I'll do -- I think, to be safe, I better take the actual exhibit. Your Honor, may I approach to retrieve the exhibits?
THE COURT: Yes.
MR. SANGER: Thank you.
Just so we're oriented, Your Honor, I'd like to put up the first page of Exhibit 460, if I may.
THE COURT: All right.
Q. BY MR. SANGER: So on page one on 460, you 12436

show four calls going between Geragos & Geragos and Brad Miller, correct?
A. Correct.
Q. And to make that determination, you used the phone records that were in those other two exhibits, 448 and 449; is that correct?
A. Correct.
Q. So 448 were the records of Brad Miller?
A. Correct.
Q. All right. And then 449 were the records of Geragos & Geragos?
A. Correct.
Q. Now, what phone was it that you looked at for the records of Geragos & Geragos?
A. His cellular telephone ending in 3900. I'm sorry, ending in 2100.
Q. 2100. Now, Freudian or otherwise, you said 3900. Why would that --
A. That is his office phone.
Q. Did you analyze that phone number as well?
A. We do not have those records.
Q. Okay. Did you analyze that number when you looked at the Brad Miller records?
A. Yes, I did.
Q. Okay. So are some of the phone calls that you've identified on your chart? And I'm putting up the first page here of 460. Are some of those phone records phone calls that were made between the law 12437

1 firm's number of Geragos & Geragos and Brad Miller?
2 A. Correct.
3 Q. Brad Miller's cell phone records have both
4 incoming and outgoing calls; is that right?
5 A. Correct.
6 Q. So that's not always the case, right? In
7 phone records, you don't always --
8 A. That's correct, yes.
9 Q. So in this case, you could tell, by Brad
10 Miller's phone records, what calls were being made
11 from that phone and what calls were received in most
12 cases, correct?
13 A. Correct.
14 MR. SANGER: Now, let me skip ahead to the
15 next page. And actually this is page three, because
16 there's a page -- if I may, Your Honor, there's a
17 page on the back of page one. They're two-sided.
18 So I'll put up what is, in essence, page three.
19 THE COURT: All right.
20 Q. BY MR. SANGER: And this is for 2-12 of
21 2003; is that correct?
22 A. Correct.
23 Q. And I think you told us, by the way, the
24 first two pages say "'05" and they're really "'03"?
25 A. That's correct.
26 Q. I put one up there that said "'05," but it's
27 really "'03."
28 Now, you have lines back and forth. You 12438

still don't show which direction the calls are going in your chart; is that right?
A. Correct.
Q. And if you go back to the records, you could figure that out, and you did on occasion; is that right?
A. Correct.
Q. Except for the three-way calls that you identified, of which there were a couple, I think you testified to --
A. Correct.
Q. -- the rest of them are calls between two different phones?
A. Correct.
Q. Okay. So once again, when you put everybody together, when you loop everybody together, it doesn't mean that Brad Miller's phone, for instance, in this -- if you look at this chart for 2-12, that Brad Miller's phone has any connection to Vincent Amen's phone; is that correct?
A. Only in that they have Schaffel in common.
Q. Well, but they don't have Schaffel on the line at the same time; is that right?
A. No.
Q. All right. So from the standpoint of the theory of the prosecution that somehow these people are all related, that's --
MR. SNEDDON: I'm going to object to that 12439

question as argumentative.
THE COURT: Sustained.
Q. BY MR. SANGER: When you say they have Schaffel in common, you're simply showing that there's phone calls from Miller to Schaffel, however you say his name, and there's phone calls from Schaffel's phone to Amen's phone or vice versa, right?
A. Correct.
MR. SNEDDON: I object. That's unintelligible and compound.
THE COURT: Well, it's compound for sure.
MR. SANGER: Okay. Is it sustained, Your Honor? I couldn't quite hear what you said.
THE COURT: I said it's compound. I didn't rule on the other issue. Go ahead.
MR. SANGER: Spared me an unintelligible ruling.
THE COURT: Right.
Q. BY MR. SANGER: Okay. Well, what I'm getting at here is, the Brad Miller phone and the Schaffel phone have calls that go one way or the other, three calls going one way or the other, right?
A. Correct.
Q. And then the Schaffel phone and the Amen phone have three calls going one way or the other, correct? 12440

A. Correct.
Q. You have no information from these phone records who was on any of those phones, correct?
A. Yes and no.
Q. Okay. You have phones that are registered or purchased by a certain person?
A. And cellular phones at that.
Q. And some are cellular phones, so you might assume that the person who has the cell phone is a person who's making the calls, right?
A. Correct.
Q. All right. So -- but other than that, you don't know --
A. No.
Q. -- who was on the phone?
All right. And you certainly don't know the subject matter of these calls, right?
A. No.
Q. Now, throughout here, and I'm not going to put all these up, you listed quite a number of phone calls between Brad Miller and -- Brad Miller's phone and the Geragos & Geragos phones, right?
A. Correct.
Q. And those phone calls you listed starting on February the 4th of 2005, right?
A. Correct.
MR. SANGER: So I'll go back -- with the Court's permission, I'll go back to that page. 12441

THE COURT: Yes.
Q. BY MR. SANGER: And you prepared this as an exhibit in the case of People versus Michael Jackson, correct?
A. Correct.
Q. And from these phone records, do you have any information that any of those four phone calls had anything to do with Michael Jackson or any of these other people who were doing whatever they were doing during this period of time?
A. On that particular day, I do not.
Q. Okay. In fact, you omitted to list a large number of telephone calls between the Geragos phone or phones and the Brad Miller phones during the period of time for which you had records, did you not?
A. I don't understand what you're --
MR. SANGER: Okay. Well, let's do this. May I approach? I want to show the witness an exhibit.
THE COURT: Yes.
MR. SANGER: I'll tell you what, I'll do it this way, if it's all right with the Court. I have Exhibit 903, which actually was introduced through the testimony of Mr. Dickerman, and I'd like to turn to a page several pages into it, and I'll put that up.
MR. SNEDDON: Can I see it, please? 12442

MR. SANGER: Yeah.
Q. I'm going to put this up here, and I'm really just showing the top part of it, which is the letterhead of Geragos & Geragos, right?
A. Correct.
Q. And you mentioned a 3900. It's a little unclear, actually, as I look at it, but the phone number there is (213) 625-3900. That's the main phone number for that law firm, correct?
A. It appears by that particular document, yes.
Q. And you had mentioned earlier 3900?
A. Correct.
Q. So you were aware that this is, in fact, the main phone number for the Geragos & Geragos law firm; is that right?
A. 3900 or 3000.
Q. 3900?
A. 3900 is the information that I have received from the phone company.
Q. Yeah. Okay. Well, now we're having some -- where do you get 3000 from? Does that look like 3000? It does, a little bit, to me.
A. It does -- it does when I'm looking at it here.
MR. SANGER: May I approach, Your Honor?
THE COURT: Yes.
Q. BY MR. SANGER: That was my concern, too. So let me just show you the document. 12443

When you look at it -- if I may ask the question here, when you look at it, it really is 3900, correct?
A. Correct.
Q. Okay. I'll put it back up, and maybe I can -- there we go. That's the way it is. So that number, (213) 625-3900, that is the number that you looked for when you looked for phone numbers starting with February 4, 2005, correct?
A. Correct.
Q. Were you aware that Brad Miller was a private investigator?
A. Yes.
Q. Were you aware that Brad Miller was working for Mr. Geragos during the time period 2003, February through March?
A. That is my understanding.
Q. Were you aware that Mr. Miller was working for Mr. Geragos on other cases during that time?
A. I am not aware personally, no.
Q. Not personally, but through your investigation, you became aware of that, did you not?
MR. SNEDDON: I'll move to strike as hearsay; lack of foundation.
THE COURT: Overruled.
You may answer.
THE WITNESS: As of, I believe, yesterday, I 12444

heard somebody mention another case that they were working on together.
Q. BY MR. SANGER: High-profile case, right?
A. Correct.
Q. And you would expect a lawyer and an investigator working on a high-profile case -- having nothing to do with Mr. Jackson, right? The case you just heard about, the case you heard about had nothing to do with Mr. Jackson, correct?
A. Correct.
Q. You would expect that Mr. Geragos and Mr. Miller, his investigator, would be having telephone conversations about that high-profile case, independent of anything to do with Mr. Jackson or anybody associated with Mr. Jackson, right?
MR. SNEDDON: Same objection, Your Honor. Lack of foundation; calls for speculation.
THE COURT: Sustained.
Q. BY MR. SANGER: In fact, when you look at the records --
And I have here, Your Honor, 448, and this is an envelope of records which were the Bradley Miller records. And I want to turn to certain pages.
Okay. As luck would have it, they're in a different order. Give me just one second, Your Honor.
I'm going to turn to the page that is the 12445

telephone bill of January 8, 2003, and it's page 6 of 29, and I'd like to put that page up on the screen, and it would be from Exhibit 448.
THE COURT: All right.
MR. SANGER: Thank you.
Q. I'm not going to go through all of these, because they're in evidence, but just as an example -- take a few examples here. Here on November 30th of 2002, there is a call from the Geragos law firm to Mr. Miller's phone; is that correct?
MR. SNEDDON: Your Honor, I'm going to object to this. November is way out of the time frame of the purported testimony offered by the prosecution. This is irrelevant and immaterial.
THE COURT: Overruled.
MR. SANGER: I don't know if there was an answer, Your Honor.
THE COURT: No, there wasn't.
Q. BY MR. SANGER: So my question was, it appears November 30th, 2002, there was a telephone call from the Geragos & Geragos telephone system to Mr. Miller; is that correct?
A. Correct.
Q. And let's see if we can -- I'm not going to go through all of these again, but let me just do some representative ones here.
If we -- I'd like to put up page 9 of 29, 12446

the January 8th phone bill from Exhibit 448, if I may.
Do you see an incoming call? Brad Miller's phone receives a call from the Geragos & Geragos law firm on December 5, 2002, correct?
A. That's correct.
Q. And you see down here a couple of calls. One is an incoming call from the cell phone number you had for Geragos & Geragos; is that correct?
A. That's correct.
Q. And that would be December 6th, 2002?
A. Correct.
Q. And it's followed by an outgoing call to the Geragos cell phone on that same date, three minutes later, right?
A. Correct.
Q. In fact, if we go through the records prior to February 4, 2003, the records that you have that start about November of 2002 and go through February 3, 2003, there's quite a number of calls, dozens of calls between Mr. Miller's phone and the Geragos & Geragos phones; is that correct?
A. I know now that there are three. We did not extend beyond the relevant time frame during our analysis.
Q. Well, and how did you determine the relevant time frame?
A. Based upon what was happening with the 12447

family and the events that occurred beginning in the beginning of February and ending mid March.
Q. So when you say you're showing the phone calls that are in the relevant time period, you're saying that you believe somehow support your theory in this case against Mr. Jackson; is that right?
MR. SNEDDON: I'm going to object to that and ask counsel be admonished. It's argumentative.
THE COURT: Sustained.
Q. BY MR. SANGER: Saying the relevant time period, you're talking about the time period that you believe pertains to this case, right?
A. Correct.
Q. But you don't know that the phone calls were made during that period of time. Let me withdraw that.
You don't know whether or not the phone calls made during that period of time had any relation to this case?
A. I think I can, yes.
Q. You think some of them did?
A. Correct.
Q. Some of them -- there are calls being made between Mr. Miller and Mr. Geragos that have something to do with what he testified to that he was doing in this case, we would assume, right?
A. Well, in addition to that, you have direct calls between Mr. Geragos and the alleged 12448

co-conspirators. You also have direct calls between
Mr. Miller and the alleged co-conspirators.
Q. That's right.
A. And calls between Mr. Geragos and Mr. Miller
during that same time frame.
Q. That's right. But when you put the calls
between Mr. Geragos and Mr. Miller up there, you
don't know how many of those pertain to this case
and how many of those pertain to the other
high-profile case you talked about, right?
MR. SNEDDON: Your Honor, I'm going to
object. It's argumentative and asked and answered.
THE COURT: Overruled.
THE WITNESS: No.
Q. BY MR. SANGER: And you also don't know how
many calls pertained to other things that relate
maybe to other cases or other matters, do you?
A. Not necessarily, no.
Q. Okay. Now, you said you only know of three.
I think I showed you four so far, but --
A. I remembered three, but if you showed me
four, I know four.
Q. All right. Let me ask you to do this,
because I really don't want to take up the Court's
time doing this, if I may.
What I'd like to do is take this off the
board, and I'm going to -- with the Court's
permission, I'm going to take Exhibit 448, which is 12449

1 the actual court exhibit of the Brad Miller phone
2 records, and I'm going to also bring up a book with
3 some markers on it and let the witness take a look
4 at all of that and see if we can't identify some
5 more phone calls more quickly.
6 May I do that?
7 THE COURT: Fine.
8 MR. SANGER: Thank you.
9 THE WITNESS: Thank you.
10 Q. BY MR. SANGER: That's 448, and I'll show
11 you my book there, and you can do whatever you want
12 to answer this question. But what I'm going to ask
13 you, after you have a chance to flip through, there
14 appears to be some phone numbers that we already
15 highlighted and put some post-its there so you can
16 find them.
17 And what I'm going to ask you is, after you
18 reviewed that, if that would give you sufficient
19 information to tell me whether or not there appear
20 to be dozens of phone calls between Mr. Miller
21 and -- Mr. Miller's office and Mr. Geragos's office
22 prior to February the 4th, 2003.
23 A. I did it.
24 Dozens, as long as you're talking multiple,
25 as in two or three dozen, yes.
26 Q. Two or three dozen, all right.
27 May I approach with another exhibit, Your
28 Honor? 12450

THE COURT: Yes.
Q. BY MR. SANGER: I was going to say while counsel is looking at that, but by the way, the Law Firm of Geragos & Geragos, you determined, has a number of lawyers in it; is that correct?
A. I know of at least two --
Q. Okay.
A. -- personally.
Q. Personally you know of two?
A. Yes.
Q. All right. In fact, besides personally knowing of two, there's five or six lawyers in the firm, is there not?
A. I don't know.
MR. SNEDDON: I'm going to object to that. Calls for speculation
THE COURT: It's overruled. He said he doesn't know.
MR. SANGER: All right. I'm going to show you what's been marked for identification as Exhibit 5108.
And, Your Honor, this was previously marked for identification perhaps at a point when the jury wasn't in the room, so if I may recite what it is.
It is a page from a telephone bill of February the 25th, 2003, to a number at the ranch, 688-1679. And I believe Mr. Sneddon agreed to the foundation for that. It hasn't been offered yet. 12451

Q. Okay. So I'm asking you to look at Exhibit 5108. You've got that in front of you. And I'd like you to look at the first entry, which is on line 13, for February the 12th, a call at 12:55 a.m.
A. Okay.
Q. Does it appear that a call was made at 12:55 a.m. from the ranch to a particular number that's shown there? Do you see it?
A. Yes.
Q. And it lasted about seven minutes. They were billed for seven minutes?
A. Correct.
Q. All right. Do you recognize the number to which that call was placed?
A. I do not.
Q. But you would agree that there is a call at 2:55 a.m. that's made from the ranch elsewhere; is that correct?
A. 12:55 a.m.
Q. I'm sorry, 12:55 a.m., and it's made to a local (805) area code --
A. Correct.
Q. -- destination.
All right. Thank you. And I have no further questions.
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// 12452

1 REDIRECT EXAMINATION
2 BY MR. SNEDDON:
3 Q. Detective Bonner, with regard to the exhibit
4 that was played for the jury, 808, I believe is the
5 exhibit --
6 MR. SANGER: It was 908-A.
7 MR. SNEDDON: I'm sorry.
8 MR. SANGER: 908.
9 MR. SNEDDON: 908? Thank you.
10 Q. 908-A, the one that was played in the
11 courtroom, the one that you marked the location of
12 the cameraman at the time it was made --
13 A. Correct.
14 Q. -- you were there at that location when that
15 film was made; is that correct?
16 A. Yes, I was.
17 Q. And you were obviously in the courtroom when
18 you heard it played for the jury?
19 A. Yes, I was.
20 Q. Was the sound of those chimes louder or
21 softer at the time that you were standing next to
22 the cameraman in the room than in the courtroom
23 here?
24 A. I would say it was consistent.
25 MR. SNEDDON: All right. Thank you very
26 much.
27 MR. SANGER: I have no further questions.
28 MR. SNEDDON: Oh. 12453

MR. SANGER: Oh, maybe I do.
MR. SNEDDON: I'm just reminded, yeah, before the witness leaves, that there was -- we moved 416 into evidence and the Court held it back until after Mr. Sanger had cross-examination, and we would now move that 416 -- 460, I'm sorry. That's how these problems occur -- 460 be admitted into evidence.
MR. SANGER: Those are the --
MR. SNEDDON: Charts.
MR. SANGER: -- the charts. They're cumulative to a certain extent, but I'll submit it.
THE COURT: Admitted.
Any other questions?
MR. SNEDDON: No, I don't have any questions.
THE COURT: All right. You may step down.
THE WITNESS: Thank you, Your Honor.
THE COURT: Call your next witness.
MR. SNEDDON: Your Honor, at this time I have a document which I'd like to move -- I've had marked as People's 902 for identification purposes. I gave counsel a copy of it yesterday. I'll let him examine it to make sure it's --
MR. SANGER: No, no. That's all right.
MR. SNEDDON: It's a document from the Superior Court, the State of California, the County of Los Angeles, and it's a five-page document, and 12454

it is part of the lawsuit involving the Arvizos and J.C. Penney. And I would move that this document be admitted into evidence. It is certified by the Clerk of the Court May 26th of 2005.

MR. SANGER: Your Honor, I have an objection to that which I'll state in legal terms first. The objection is that the document contains hearsay, and the Court will have to look at it to see what I'm talking about. There's a declaration that's just hearsay, opinion.

Secondly, it's an incomplete document.

THE COURT: Wait. Who has the document?

MR. SNEDDON: I do, Your Honor. I'll --

MR. SANGER: It's an incomplete -- if I may just finish my objection. Is that all right, Your Honor?

THE COURT: Yes.

MR. SANGER: It's an incomplete document in that it refers to Exhibits, I believe, A and B that are not attached to this particular document, and it is also one document that, besides being hearsay, is out of context without those exhibits and without the other documents surrounding it.

If you'd want us to approach, I was going to pinpoint the objection.

MR. SNEDDON: I could state the relevancy, which probably might be helpful to the Court. I could do it from here or I could do it at the bench. 12455

THE COURT: Why don't you approach.
(Discussion held off the record at sidebar.)
MR. SNEDDON: Your Honor, there is another item.
THE COURT: All right.
MR. SNEDDON: There is a series of photographs marked 889 through 897, which are the photographs I believe that were relevant to the testimony of Brett Barnes, and they were marked for identification. They were authenticated by at least two witnesses, and we move that they be admitted into evidence.
MR. SANGER: And I missed the numbers on that. I'm sorry.
MR. SNEDDON: 889 and 897. I believe the letter is 897. The photographs are 889 to 896. And there might even be a blank space in there.
MR. SANGER: Before we get to that, Your Honor, just so the record is clear, I don't think the Court ruled on the record.
BAILIFF CORTEZ: Your microphone's off, sir.
MR. SANGER: My fault, I'm sorry.
I don't think the Court ruled on the record with regard to 902.
THE COURT: All right. I'm ruling at this point, without further information, it's inadmissible.
MR. SANGER: Now, with regard to what was 12456

just offered, quite frankly, I'd have to take look at it to see what we're talking about.
THE COURT: 889 --
MR. SANGER: Could I approach your clerk? I believe she's retrieving them.
THE COURT: Yeah. 889 through 897. 895 has not been identified, so it wouldn't include 895.
MR. SANGER: Let me show them to Mr. Mesereau.
(Off-the-record discussion held at counsel table.)
MR. SANGER: Your Honor, as far as the photographs are concerned, which are 889 through 896, minus 895, which is not being offered, we would have no objection to that series.
With regard to the letter, which is 897, that's hearsay, and we would object.
THE COURT: 889 - let me see those, please - through 896 are admitted.
895, not having been identified, it's not one of the ones I'm admitting.
MR. SANGER: With regard to the letter -- I just gave it back. Whatever number that was. 897?
THE COURT: Yes.
MR. SANGER: I'll object as hearsay, but I'd also object that this is not proper rebuttal. This is something that occurred during the defense case or was brought up during the defense case, and if it 12457

was going to be moved in, it should have been moved in then. But it's still hearsay, so I don't think it comes in either way.
THE COURT: Do you want to speak to the hearsay issue?
MR. ZONEN: Yes, Your Honor.
It's reflective of the declarant's state of mind. She was cross-examined extensively about that letter. The author of that letter was a witness for the defense during the defense case. And that letter, without getting into the content of it, reflects her feelings and views of the relationship between she, the defendant and her child, and I believe it's relevant for that, in that regard.
THE COURT: I'll take this up later.
MR. ZONEN: Would you like a typed copy of that? It's easier to read in a typed copy.
THE COURT: If you have one.
MR. ZONEN: I don't know that I have one here, but I will get one for you as soon as possible.
THE COURT: Okay.
MR. SANGER: Will you give us a copy of the typed copy?
MR. ZONEN: Yes.
THE COURT: Go ahead.
MR. AUCHINCLOSS: Your Honor, at this time we would like to publish for the jury seven 12458

different documents from the 400 series of documents, all in the 400 notebook. These were the documents that were admitted pursuant to a search of the home of Marc Schaffel.

I can proceed in a couple of ways. There's two of the documents that will require reading, either by myself or by the jury. So those will take just a little bit of time. And I can publish them on the Elmo and give the jury time to read them.

The other documents are short and should be pretty quick to get on and off the screen.

So I'm happy to proceed any way you'd like me to. These documents, by the way, are not part of our rebuttal case. They were admitted at the end of the People's case, and we did not have a chance to publish them because of that.

THE COURT: And I said I would allow you to publish them.

MR. AUCHINCLOSS: How would you like me to proceed? Just to put them on the Elmo and give the jury time to read them?

THE COURT: That's fine.

MR. AUCHINCLOSS: All right. Very well.

I'll just mention each document as I'm placing it on the Elmo.

THE COURT: All right.

MR. SANGER: Your Honor, could we just approach for a moment? Could we approach for a

1 moment?
2 THE COURT: Yes.
3 MR. SANGER: Thank you.
4 (Discussion held off the record at sidebar.)
5 (Off-the-record discussion held at counsel
6 table.)
7 MR. AUCHINCLOSS: I believe counsel's just
8 going to take a moment to look at the documents
9 before I publish them.
10 THE COURT: That's what we agreed to.
11 MR. SANGER: Based on the representation
12 that each of these has actually been received -- I
13 know the Court had some rulings, but based on that
14 representation, I have no objection.
15 THE COURT: All right. Thank you.
16 MR. AUCHINCLOSS: All right. Your Honor, if
17 I could please have the Elmo.
18 MR. SANGER: I would object to any reading.
19 I mean, introduce what it is, but I don't think
20 there should be further discussion, except to say,
21 "This is Exhibit so and so."
22 MR. AUCHINCLOSS: That's my intention.
23 And if I could confirm with Madam Clerk, was
24 419 received into evidence? 419, page three?
25 THE CLERK: Yes. Yes. Yes, it was.
26 MR. AUCHINCLOSS: Thank you.
27 The first exhibit will be 419, page three,
28 Your Honor. 12460

(Whereupon, People's Exhibit 419, page three, was published to the Court and jury.)
MR. AUCHINCLOSS: The next exhibit will be 418-A.
THE CLERK: 418-A was not received.
MR. AUCHINCLOSS: 418-A?
THE CLERK: 418, page three, was received.
MR. AUCHINCLOSS: Yes, okay. But 418-A?
THE CLERK: Was not received.
MR. AUCHINCLOSS: Not received, okay. 418?
THE CLERK: That was received.
(Whereupon, People's Exhibit 418 was published to the Court and jury.)
MR. AUCHINCLOSS: The next exhibit I'll ask to publish is Exhibit 417, page 12.
(Whereupon, People's Exhibit 417, page 12, was published to the Court and jury.)
MR. AUCHINCLOSS: I'll show a wide-angle view, and then I'll close in on the text portion.
THE COURT: Counsel, we're going to stop just for a second.
Go ahead, Alternate.
MR. SANGER: Could we use the moment to approach on a different matter at this time?
THE COURT: Yeah.
MR. SANGER: I think with Mr. Sneddon on this one. 12461

I'm sorry, Mr. Sneddon.
MR. SNEDDON: What's the matter?
MR. SANGER: Approach.
MR. SNEDDON: May I know what it's about?
(Off-the-record discussion held at counsel
table.)
(Discussion held off the record at sidebar.)
MR. AUCHINCLOSS: May I proceed, Your Honor?
THE COURT: Yes.
MR. AUCHINCLOSS: The next exhibit I will be
publishing will be Exhibit No. 410, page two.
(Whereupon, People's Exhibit 410, page two,
was published to the Court and jury.)
MR. AUCHINCLOSS: And the next exhibit I
will be publishing will be 407, pages two and three.
And this one will take a little bit of time. These
next two are -- have some text in them, so I'll
probably move in close and then gradually move down
the page, with the Court's permission.
(Whereupon, People's Exhibit 407, page two,
was published to the Court and jury.)
MR. AUCHINCLOSS: If I may, I'll move the
letter down.
(Whereupon, People's Exhibit 407, page two,
continued to be published to the Court and jury.)
MR. AUCHINCLOSS: And finally, I'll move on
to page three now.
(Whereupon, People's Exhibit 407, page 12462

three, was published to the Court and jury.)
MR. AUCHINCLOSS: And then the last exhibit we'll be publishing at this time is Exhibit No. 405. I'll also move this down slowly to give everyone a chance to read it.
(Whereupon, People's Exhibit 405 was published to the Court and jury.)
MR. AUCHINCLOSS: All right. Thank you very much, Your Honor.
THE COURT: Mr. Sneddon?
MR. SNEDDON: Yes, Your Honor.
THE COURT: Do you have the -- remember that short brief you gave me on the issue on this tape, on this DVD?
MR. SNEDDON: Do I remember the issue?
THE COURT: Do you have the brief that you provided me with?
MR. SNEDDON: On this issue?
THE COURT: Yeah.
MR. SNEDDON: I -- I -- I'm not sure if I do. Could I check my briefcase?
THE COURT: Yes. I don't have mine at bench, so I was just wondering if someone had it.
MR. SNEDDON: Oh, on the -- yes, sir, I know what you're talking about. I'm sorry, Your Honor, I did not bring my copy with me. I think Mr. Auchincloss can retrieve it on his computer, but to get it printed out would 12463

be another thing.
THE COURT: Okay. Are you going to -- are you preparing to play that now?
MR. SNEDDON: I was. I have a few questions to ask to lay the foundation, but I can have somebody run upstairs and print it out. It may be on -- should be on Mag's computer, isn't it? Your Honor, I think Mr. Nicola has it on his computer as well, and we can go up and print it out and have it down here, I think, in just a couple of minutes.
THE COURT: All right. I appreciate it.
MR. SNEDDON: Would you like me to go ahead and at least lay the foundation?
THE COURT: Yes. Go ahead.
MR. SNEDDON: All right. I'll call Sergeant Robel back to the stand, Your Honor.
THE COURT: You're still under oath. You may be seated.

STEVE ROBEL
Having been previously sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION
BY MR. SNEDDON:
Q. Sergeant Robel, in conjunction with your assignment involved in this investigation, did you 12464

conduct an interview with Gavin Arvizo?
A. Yes, I did.
Q. Do you recall when the first time it was that you interviewed Gavin Arvizo?
A. Yes, I do.
Q. And when was that?
A. I believe it was July the 6th, 2003.
Q. And where did that interview take place?
A. In the City of Santa Barbara.
Q. And where in the City of Santa Barbara?
A. At the SART Cottage.
Q. And what does "SART" stand for?
A. Sexual Assault Response Team. It's a building that we use to conduct forensic interviews.
Q. And was the conversation and interview that you conducted that day with Gavin Arvizo tape-recorded?
A. Yes, it was.
Q. Was it also videoed?
A. Yes, it was.
Q. And was there another officer who participated with you in that interview?
A. Yes, there was.
Q. And who was that?
A. Detective Paul Zelis.
Q. Now, you have had occasion since then to review the tape of the interview with Gavin Arvizo, correct? 12465

A. Yes, I have.
Q. And you've actually done that on a number of occasions?
A. Yes, I have.
Q. Now, with regard to the original interview, what media format was that done in?
A. VHS.
Q. And you've reviewed that VHS tape; is that correct?
A. Yes, I have.
Q. And later, for purposes -- well, later, that VHS was converted into a digital form; is that correct?
A. Correct.
Q. And have you had occasion to review the digital form of the interview between you and Gavin Arvizo?
A. Yes, I have.
Q. And have you -- with regard to the VHS original and the DVD copy that was made, do they appear to you to be the same?
A. Yes, they do.
MR. SNEDDON: Your Honor, I believe that we have previously marked People's 900, and it was marked for identification purposes at that time, and we would now move that People's Exhibit 900 be admitted into evidence.
MR. SANGER: We object, of course, but if 12466

it's admitted, it's admitted for a limited purpose.
THE COURT: It is.
MR. SNEDDON: With that understanding, Your Honor, and --
THE COURT: It's admitted.
MR. SNEDDON: -- I'm afraid I've stalled as long as I can.
THE COURT: Maybe we'll just start the break. The reason I wanted that is, I want to give a limiting instruction, and I'm trying to develop some words, and so I think we'll just break early so I can look at that. I don't want to show the tape till we've done that.
MR. SNEDDON: I understand. That's -- I understand fully. Thank you.
THE COURT: Send it back to me as soon as you --
MR. SNEDDON: I'm sorry?
THE COURT: Send it back as soon as you get it.
MR. SNEDDON: Oh, send it back. Yes, sir.
(Recess taken.)
THE COURT: (To the jury) I was going to say, "Would you step out for a minute?" but I got the laugh anyway.
All right. What I've been working on, what we've been working on, is an instruction here, and this is an instruction as it relates to this 12467

evidence that the District Attorney is about to present:
You have previously heard evidence of Gavin's statements presented by both the prosecution and the defense. You are about to hear and see a tape-recording of the interview of Gavin Arvizo by Sergeant Robel and Detective Zelis in July of 2003.
This is being shown to you only to observe the demeanor, manner and attitude of the witness.
His statements are not to be considered for the truth of the matter stated.
Since the evidence is offered for this limited purpose, the defense is only permitted to offer rebuttal evidence for this limited purpose.
All right. You may proceed.
MR. SNEDDON: Your Honor, we're prepared to show the video at this time, and I would request that Sergeant Robel be allowed to sit back here so he wouldn't be in the way for people to see the video.
THE COURT: Yes.
MR. SNEDDON: Is that okay with the Court?
THE COURT: Yes.
MR. SNEDDON: All right. Fine.
I think I should indicate for the record, this is Exhibit 900. It's in evidence.
THE COURT: And you should tell everyone about how long it will take to play it. 12468

MR. SNEDDON: Oh, okay. It's about one hour and four minutes long.
THE COURT: All right.
(Whereupon, a DVD, People's Exhibit 900, was played for the Court and jury.)
MR. SNEDDON: I have no further questions, Your Honor.
THE COURT: Mr. Sanger?

CROSS-EXAMINATION
BY MR. SANGER:
Q. All right. I only have a couple of areas to cover with you here.
The first one is that there's sniffling you hear throughout that tape. Did you hear that?
A. Yes.
Q. That was Detective Zelis; is that right?
A. On a couple occasions it was Detective Zelis. He had a cold.
Q. A couple of occasions?
A. There were occasions that it was Gavin as well.
Q. And I saw you giving Gavin Kleenex to help him with his sniffling?
A. No, he was wiping his nose with his finger.
Q. And you would agree, if people watch that, they can form their own opinion on that?
MR. SNEDDON: I'll object as argumentative. 12469

THE COURT: Sustained.
Q. BY MR. SANGER: All right. Now, the other thing I want to ask you about is, and this relates to the demeanor of Gavin Arvizo, because that's our limited scope here, okay?
The demeanor of somebody when you're -- well, let me put this in context. Excuse me.
I think we've already been over this, but you've been a police officer for a long time, correct?
A. Correct.
Q. And you've conducted many, many interviews; is that correct?
A. That's correct.
Q. And you've conducted many, many interrogations; is that correct?
A. Correct.
Q. All right. And there's a difference between an interview and an interrogation, correct?
A. Correct.
Q. An interview, you're listening, you're taking notes, you're hearing what has to be said, right?
A. Correct.
Q. An interrogation, you're trying to get somebody to tell you something. You think they're not maybe being forthcoming. You want to interrogate them and get it out of them; is that 12470

right?
A. That's correct.
Q. All right. This was an interview, not an interrogation, correct?
A. Correct.
Q. And the demeanor of a person will differ -- in your vast experience in this regard, the demeanor of a person is going to be affected by whether or not you're doing an interrogation or an interview, correct?
A. In a way, I don't agree totally with that.
Q. Let's start with this: Do you agree mostly with that?
A. When you're interviewing adults versus children, there is a difference in their demeanor, whether -- and even interviewing children, there's a major change in their -- even if it's a friendly interview, you're going to see behavioral changes in a child versus an adult.
Q. All right. You may be reading more into the question than I thought there, but the fact is, if you're saying to somebody in a situation where you are interrogating them and challenging what they are telling you, that is likely to have an effect on their demeanor, as opposed to simply interviewing them and listening to what they have to say, right?
A. That is correct.
Q. And in this particular case, Gavin was 13 12471

when you did this interview; is that correct?
A. Yes, he was.
Q. And, for instance, there's a part where you ask him what an erection was, if he knew what an erection was; is that right?
A. Yes.
Q. And this 13-year-old boy told you he knew what it was because Michael Jackson had told him. Remember that?
A. He shook his head and -- I even had a hard time hearing what he said, but he shook his head as "Yes." I couldn't say exactly if he said it was Michael or not at this point.
Q. Okay. Whatever it is, it's on there.
A. Right.
MR. SNEDDON: Your Honor, I'm going to object to counsel's statements and move to strike.
THE BAILIFF: Can't hear you.
MR. SNEDDON: Object to counsel's statements and move to strike.
MR. SANGER: It's actually foundational to the next question.
MR. SNEDDON: Well, it --
MR. SANGER: But, whatever.
THE COURT: Sustained.
Q. BY MR. SANGER: Okay. My point is, whatever he said, whatever he said in response to the questions as to whether or not this 13-year-old boy 12472

knew what an erection was, you did not challenge him at that point and say, “Well, what do you mean? You’re 13 and you’re telling me you don’t know what an erection is,” right?
A. No, I did not.
Q. All right. And you would agree that if you had conducted an interview in that fashion, that that might have resulted in a different demeanor on the part of the witness that you were interrogating; is that correct?
A. Can you ask that again, please?
MR. SANGER: Probably not.
THE COURT: Do you want it read back?
THE WITNESS: Yes, please.
MR. SANGER: If we can read have it back, if that’s all right, Your Honor.
(Record read.)
MR. SANGER: Now that it was read back, I actually used two words there that probably aren’t compatible. Can I withdraw it and make it more clear?
THE COURT: Yes.
Q. BY MR. SANGER: You indicated you were conducting an interview and not an interrogation, so my question is, if you had used interrogative techniques in response to questions like that, you would expect to see a different demeanor on the part of the subject, no matter who it is, right? 12473

A. Asking that particular question? Is that --
Q. Sure. I was just using that as an example.
A. Under interrogation versus interview.
Q. Yeah. You'd expect to see a different demeanor, correct?
A. Possibly.
MR. SANGER: Okay. Thank you. I have no further questions.

REDIRECT EXAMINATION
BY MR. SNEDDON:
Q. Sergeant Robel, in the course of your training, you have been to a number of classes and training exercises dealing with the specific interview of child sexual assault cases, have you not?
A. Yes. Several.
Q. And have you ever been to a class where they've told you to use the interrogation and techniques that you would use with an adult with a kid in that setting?
A. No.
MR. SANGER: I would object, Your Honor, as beyond the scope of cross and outside the limited issue.
THE COURT: Sustained.
Q. BY MR. SNEDDON: Would you ever use an interrogation technique with a child molestation 12474

1 victim?
2 A. No, I wouldn't.
3 MR. SANGER: Objection; outside the scope.
4 MR. SNEDDON: Judge, he asked specifically
5 that question.
6 THE COURT: Overruled.
7 You may answer.
8 THE WITNESS: I would not. It's --
9 Q. BY MR. SNEDDON: Why?
10 A. Because interviewing a child, he is -- this
11 person is a victim, not a suspect, and in this
12 particular interview, I was trained in forensic
13 interviewing, and that is interviewing and not
14 interrogation.
15 MR. SNEDDON: Nothing further.
16
17 RECROSS-EXAMINATION
18 BY MR. SANGER:
19 Q. And that decision is based on the fact that
20 you assumed that this individual was a victim,
21 correct?
22 A. I assumed to -- the charges that I was
23 investigating, the alleged charges, yes.
24 MR. SANGER: Thank you. No further
25 questions.
26 MR. SNEDDON: Nothing further, Your Honor.
27 THE COURT: Thank you. You may step down.
28 MR. SNEDDON: Your Honor, we have no further 12475

1 evidence to present in rebuttal.
2 I would indicate to the Court, however, that
3 with regard to the document that we went to the
4 Court -- to sidebar on, which I believe is 902, that
5 I would like the opportunity to present further
6 documentation on Tuesday morning on that issue, so I
7 could rest contingent upon that.
8 THE COURT: Is that agreeable with you?
9 MR. MESEREAU: Yes, sir.
10 THE COURT: All right.
11 MR. SNEDDON: Thank you, Your Honor.
12 Thank you, Counsel.
13 THE COURT: I was trying to remember what
14 document that was, but now I do remember.
15 MR. SNEDDON: Do you remember now?
16 THE COURT: I do. So now I'm -- I would
17 allow you to try to resubmit that. That was taken
18 under that --
19 MR. SNEDDON: Thank you.
20 MR. SANGER: Before we proceed, could we
21 have a moment to talk?
22 THE COURT: Well, you can have a break if
23 you'd like.
24 MR. SANGER: Very well.
25 THE COURT: But I wouldn't want to have to
26 take a break and then come back and you weren't
27 going to do anything.
28 MR. MESEREAU: Let me talk to counsel if I 12476

1 can, Your Honor.
2 MR. SANGER: Can we just have a moment?
3 THE COURT: Yeah.
4 Let me make a ruling. Counsel? You don't
5 have to move. I'm just -- I am going to sustain the
6 hearsay objection to 897.
7 (Discussion held off the record among the
8 defense team.)
9 MR. MESEREAU: Your Honor, the defense
10 rests.
11 THE COURT: All right. Both sides have
12 rested subject to one document.
13 MR. SNEDDON: That's correct, Your Honor.
14 MR. ZONEN: Your Honor, there's one
15 additional document that the Court has under
16 submission as well. That's the letter. And I did
17 furnish --
18 MR. SNEDDON: He just ruled on that.
19 MR. ZONEN: Oh.
20 THE COURT: I just ruled it was hearsay.
21 MR. ZONEN: Oh, I'm sorry.
22 MR. SNEDDON: You lost it.
23 THE COURT: And I sustained the objection.
24 MR. ZONEN: It's not the first time.
25 THE COURT: (To the jury) All right. Then
26 you have heard all of the evidence that you're going
27 to hear in this case. What remains for the Court
28 and the attorneys is the process to agree and work 12477

out jury instructions.
It's hard for me to estimate how much time
that's going to take. I know it's going to take a
day. I know that. I mean, that's a minimum. And
that means that you would not come in on Tuesday.
So Monday is a holiday, right?
Okay. Tuesday you're not going to come in
because we're going to go over jury instructions.
Now, what I'm going to have you do is to
call in on Tuesday afternoon at -- let's say, you
know, not before -- say at four o'clock, and there
will be a message on whether you're to come back in
on Wednesday or -- yeah, Wednesday or Thursday. And
that depends on whether we get all of our jury
instructions done, and I think we will. I really
think we will, but I don't want you coming in and,
you know, have to wait around. I just don't want
that. I want us to be done with our job before you
come back.
Now, is there a number -- what number can I
give them? What's your number, Leslie?
THE BAILIFF: Mine?
THE COURT: No, no.
THE BAILIFF: Mine?
THE COURT: No, I need -- what's a number to
give them so that we can have a message for them?
Should they call Jury Services?
THE BAILIFF: Jury Services would be the 12478

1 best number.
2 THE COURT: You know what? If you'll go back
3 in the jury room, I'll release -- just stay there
4 until the bailiff comes back and gives you a number
5 to call. So it's kind of -- I know it puts you on
6 this kind of a situation, but it's better to do it
7 Tuesday afternoon than Wednesday morning.
8 MR. SANGER: Your Honor, could there be an
9 admonition, given the long weekend?
10 THE COURT: Oh, yes.
11 MR. SANGER: Thank you.
12 THE COURT: I will admonish you to remember
13 you're not to discuss the case with anyone. You're
14 still not to form any opinions or conclusions,
15 because until you know the law, until you hear the
16 law, until you hear the argument of counsel, you
17 really aren't allowed to decide this case. You've
18 got to wait till that moment when everything has
19 been done for you to decide the case.
20 You're not to go to any place mentioned in
21 the evidence for the purpose of investigation or
22 trying to find out for yourself. You're not to
23 consult any written works, legal works or other
24 works, to try and help you in this case. Remember,
25 you can only decide the case from what you hear on
26 the witness stand and the evidence that comes in.
27 You're not to watch any news events, any
28 news programs. You're not to read any newspapers or 12479

magazines relating to this case.
And there's an admonition, too, that I never have to give a jury, and you're going to hear about it in the final instructions, but there is a rule of law that prevents jurors, after the case is over, from charging compensation for giving information or accepting compensation for giving information about your experience.
And I alert you to that, because it's not something we usually read, you know. It's not something you really -- jurors aren't usually offered compensation or have that opportunity. But I wanted to just advise you in advance there is some specific laws about that that affect all of you, and I will give you the actual law when I read it to you next week.
And I'll see you probably on Wednesday, but we'll get this phone number for you in just a couple minutes.
Take them back and --
BAILIFF CORTEZ: Yes, sir.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: All right. Is there any reason not to recess until -- 12480

MR. MESEREAU: I don't think so, Your Honor.
THE COURT: -- until Tuesday morning?
MR. MESEREAU: I don't think so.
THE COURT: You'll be prepared in every
respect with your jury instructions, any that you
don't have?
MR. MESEREAU: If I may, Your Honor, I think
I may have spoken prematurely. There was an issue
yesterday that --
THE BAILIFF: Can't hear you.
MR. MESEREAU: There was an issue
yesterday --
MR. SNEDDON: Microphone.
Gordon? He wants to use the mike.
MR. AUCHINCLOSS: Oh.
THE COURT: My secretary's reminding me that
there was a motion that you're going to file to seal
those phone records, Mr. Geragos's phone records.
MR. SNEDDON: I'll take care of that. We'll
have it on Tuesday morning.
MR. SANGER: I believe the representation
was that the motion was going to be to seal
everybody's phone records.
THE COURT: All phone records, yeah. Okay.
MR. MESEREAU: Your Honor, there was an
issue yesterday where I stipulated to some e-mails
that it appeared had been sent from Mr. Miller's
office to Mr. Geragos's office. I later learned 12481

that there was some documents attached to that exhibit that were not strictly e-mails. I think Ms. Yu and Mr. Zonen met with you about that.
THE COURT: They did.
MR. MESEREAU: And I was not stipulating to the non-e-mail documents. And I did discuss that with Mr. Zonen as well. I don't -- I think --
THE COURT: They're not -- that was explained to me. Those are not in evidence.
MR. MESEREAU: Yeah, okay. Thank you, Your Honor.
MR. ZONEN: The entire packet has been withdrawn; is that right?
THE COURT: The entire packet has been withdrawn. Make sure my clerk knows the number of that packet.
MR. ZONEN: Okay.
THE COURT: Anything else?
MR. MESEREAU: Not from the defense, Your Honor.
MR. AUCHINCLOSS: Just one minor detail, Your Honor. We now have the redacted portion of 908-A, and we'll submit that to the Court for admission at this time.
908, we will -- it's marked, and it will be an exhibit, but we will not ask for its admission.
MR. SANGER: And out of an abundance of caution, it's the old pig in a poke as opposed to 12482

the horse in the arena thing. I should probably listen to it once. It's only 40 seconds.
MR. AUCHINCLOSS: I have a copy for defense counsel.
MR. SANGER: Maybe what I could do is just play it here. After you leave the bench, play it here real quick, listen to it. If it's okay, we will submit it. If not, we'll bring it up Tuesday morning.
THE COURT: That's fine.
MR. SNEDDON: What time did the Court want us here Tuesday morning, Your Honor?
THE COURT: We're going to conduct court the same time as we have.
MR. SNEDDON: Regular hours, okay.
THE COURT: Okay?
MR. SANGER: Okay. Thank you, Your Honor.
THE COURT: I intend to do that during deliberations, too. Deliberations will only be during the same hours as we've had court.
(The proceedings adjourned at 1:25 p.m.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify: That the foregoing pages 12379 through 12483 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on May 27, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, May 27, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
OFFICIAL COURT REPORTER